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ELECTRONICALLY  
**FILED**  
*Superior Court of California,  
County of San Francisco*  
**02/11/2019**  
Clerk of the Court  
BY: VANESSA WU  
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO**

STYLEFORM IT,

Plaintiff,

v.

FACEBOOK, INC., a Delaware  
Corporation; MARK ZUCKERBERG, an  
individual; CHRISTOPHER COX, an  
individual; SAMUEL LESSIN, an  
individual; MICHAEL VERMAL, an  
individual; ILYA SUKHAR, an  
individual; and DOES 1-50, inclusive,

Defendants.

Case No.: CGC-18-571075

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF STUART  
GROSS'S AND GROSS & KLEIN LLP'S  
MOTION TO BE RELIEVED AS COUNSEL  
FOR PLAINTIFF STYLEFORM IT**

Hearing

Date: March 26, 2019

Time: 9:30 a.m.

Dept: 302

Judge: Ethan P. Schulman

Date Action Filed:

Reservation No. 02110326-02

Stuart Gross and Gross & Klein LLP (collectively "G&K"), and their attorneys, hereby request entry of an order relieving them (including any and all attorneys affiliated with Gross & Klein LLP) as counsel for Plaintiff Styleform IT ("STYLEFORM") in this matter pursuant to California Code of Civil Procedure section 284(2). The Court may allow withdrawal of counsel and counsel may request permission to withdraw if good cause exists pursuant to one or more of the grounds identified in California Rule of Professional Conduct 1.16(b)

Good cause exists to permit G&K to withdraw as counsel for STYLEFORM in this case

1 for several, independent reasons.

2 First, good cause exists under Rule 1.16(b)(4), as the STYLEFORM by its conduct has  
3 made it unreasonably difficult for G&K to carry out the representation effectively. Declaration of  
4 Stuart G. Gross (“Gross Dec.”), ¶ 2. The attorney-client relationship and corresponding  
5 privileges and ethical duties arising out of that sacrosanct relationship require that specific facts  
6 which give rise to this ground are confidential and required to be kept confidential pursuant to  
7 California Business & Professions Code §6068(e), California Rule of Professional Conduct 1.6,  
8 and by the attorney-client privilege. (Cal. Evid. Code §§950 *et seq.*)

9 In *Aceves v. Superior Court*, the California Court of Appeal, Fourth District, reviewed  
10 and upheld a motion to be relieved as counsel filed under very similar circumstances. *Aceves v.*  
11 *Superior Court* (1996) 51 Cal.App.4th 584. The attorney in the underlying matter moved to be  
12 relieved as counsel based on the manifestation of an actual, un-waivable conflict between him  
13 and his client which “resulted in a complete breakdown in the attorney-client relationship,”  
14 where, as here, the attorney-client privilege prevented the attorney from providing detailed  
15 grounds for the conflict, beyond his good faith representations to the court that such a conflict  
16 did in fact exist. Citing, the Court of Appeal held that, for the purposes of a motion to withdraw,  
17 the attorney’s representations to the court were sufficient to warrant relief (withdrawal) where  
18 the attorney described the matter as one that, among other things, had “resulted in the complete  
19 breakdown in the attorney client relationship.” *Id.* at 592.

20 Accordingly, based on the sworn declaration of the undersigned that the conduct of  
21 STYLEFORM has made it unreasonably difficult for G&K to continue representing  
22 STYLEFORM, *see* Gross Dec., ¶ 2, G&K respectfully submits that a good cause for granting its  
23 Motion exists and requests it be granted.<sup>1</sup>

24 Second, an independently sufficient basis for good cause exists under Rule 1.16(b)(5)

25 \_\_\_\_\_  
26 <sup>1</sup> However, in the event that the Court desires further information to ascertain the good faith basis  
27 for this motion and for withdrawal, it is requested that the Court have an *in camera* hearing  
28 outside of the presence of all other parties so that any information demonstrating good cause for  
this withdrawal which counsel can disclose may be supplied to the Court. Gross Dec., ¶ 2. *Accord*  
*Manfredi & Levine v. Superior Court* (1998) 66 Cal. App. 4th 1128, 1136-1137.

1 because STYLEFORM is in breach of the its retainer agreement to G&K, and, after being given a  
2 reasonable warning, has not cured. Specifically, STYLEFORM is breach of its obligation to agree  
3 to pay, and to pay, \$12,956.35 in attorneys' fees and costs (\$11,674.28 in attorneys' fees and  
4 \$1,282.07 in costs), as well as its obligation to agree to pay attorneys' fees and costs in the future.  
5 Gross Dec., ¶ 3. The undersigned warned STYLEFORM's principal that G&K would have to  
6 withdraw its representation of STYLEFORM in this action, unless—in addition to resolving the  
7 issues that have given rise to the situation that forms the basis for G&K's request to be relieved as  
8 counsel under Rule 1.16(b)(4)—STYLEFORM agreed to pay its arrears, made such payment, and  
9 agreed to make timely payments going forward. STYLEFORM did not agree to pay its arrears,  
10 did not pay its arrears, and did not agree to make timely payments going forward. *Id.*, ¶ 3.

11 Third, good cause exists under Rule 1.16(b)(10), because pursuant to the terms of its  
12 retainer agreement with STYLEFORM, G&K's retention is limited to acting as local counsel and  
13 at the direction of Birnbaum & Godkin, LLP; and the latter has indicated their intention not to  
14 represent STYLEFORM in this action. Gross Dec., ¶ 4. Specifically, G&K's retainer agreement  
15 with STYLEFORM states:

16 The Client acknowledges that any action taken by the Firm will be at the direction  
17 of Birnbaum & Godkin, LLP ("Lead Counsel"). It its role as local counsel, the  
18 Firm will not be responsible for developing legal strategy, implementing legal  
19 strategy, monitoring filing deadlines, or otherwise directing the litigation. If, at  
any point in the Client's representation by the Firm, the Client would like to  
modify this scope of representation, the Client shall advise the Firm and a new  
retainer agreement shall be negotiated.

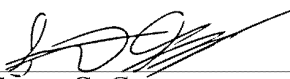
20 *See* Gross Decl., ¶ 4. The retainer agreement between STYLEFORM and G&K has never been  
21 renegotiated and G&K's responsibilities for the representation are still limited to acting as local  
22 counsel at the direction of Birnbaum & Godkin. *See* Gross Dec., ¶ 4. Accordingly, given  
23 Birnbaum & Godkin's indicated unwillingness to continue representing STYLEFORM in this  
24 matter, if G&K was not relieved as counsel in this matter it would be compelled to perform  
25 services for STYLEFORM that it never contracted to perform. *Id.*

26 For the above-stated reasons, it is respectfully submitted that G&K's Motion to be  
27 Relieved as Counsel for Plaintiff STYLEFORM should be granted.

GROSS & KLEIN LLP  
THE EMBARCADERO  
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SAN FRANCISCO, CA 94111

1 Date: February 11, 2019

GROSS & KLEIN LLP

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3 By:   
4 Stuart G. Gross  
5 Attorneys for Plaintiff  
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